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Mexico

Post: Mexico

Economia Responds to Apple Anti-dumping Decision

Report Categories:

Agriculture in the Economy

Fresh Deciduous Fruit

Trade Policy Monitoring

Policy and Program Announcements

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Report Highlights:

On November 4, 2009, the Mexican Secretariat of Economy (SE) announced in the *Diario Oficial* (Federal Register) the NAFTA Panel's decision regarding the anti-dumping investigation on imports of apples from the United States (see report MX9086). The ruling requested updated data from the SE with its final decision by December 15, 2009. However, on November 13, the SE notified all of the parties involved in the resolution that a final decision would not be reached by December 15. Instead, the SE will issue a determination by March 1, 2010. In the meantime, the anti-dumping duty will apply until a decision is made.

General Information:

According to the decision published in the *Diario Oficial* (Federal Register) on November 4, 2009, the NAFTA Panel resent this issue back to the Secretariat of Economy (SE) for further actions consistent with their investigation, in accordance with paragraph 8, Article 1904 of NAFTA. Specifically, the SE is required to reissue a new final determination considering data that focuses only on information from 2004-05 as indicated by the Secretariat in the Preliminary Investigation of September 29, 2005. (Note: This decision was issued by the NAFTA Panel on October 15, 2009, and published November 4, 2009.)

According to the panel's decision, official authorities should issue the new determination based on the following:

- SE must base its determination on information and data contained in the files only.
- The SE must provide the percentage of the domestic production in question that was considered for analysis in case the SE determines positive injury findings.
- The SE must provide a justification if it chooses to exclude data from certain months, as established in the Preliminary Resolution, or includes producers that are also importers of apples.

SE CHANGES FINAL DATE TO MARCH 1

The SE was granted 60 days from the date of the decision (October 15, 2009) to reissue its final determination, which would have been December 15, 2009. On November 13, the SE notified all of the parties involved in the resolution that a final decision will not be reached by December 15. The SE will still comply with the Panel's guidelines and procedures (as noted above), but a determination will not be issued until March 1, 2010. Below is a timeline of proposed dates.

Date	SE Proposed Activities
November 17, 2009	Starting Date: All parties must express their opinions on how the committee should conduct its investigation.
December 4, 2009	Due date to receive comments from participants.
December 14, 2009	Due date for the participants to receive responses.
December 15, 2009 to	As indicated by the Binational Panel, an analysis will be conducted using the established time period (2004-05) and opinions from the parties involved.

February 26, 2010	
March 1, 2010	Deliver the final determination to the Binational Panel and notify all of the parties.

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FAS Mexico Web Site: <http://www.mexico-usato.com>

Useful Mexican Web Sites:

Mexico's equivalent of the Secretariat of Agriculture, SAGARPA, can be found at www.sagarpa.gob.mx and Mexico's equivalent of the Secretariat of the Economy can be found at www.se.gob.mx.

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INTERNAL COMMENT ONLY: On November 20, 2009, lawyers from the Northwest Fruit Exporters (NFE) issued a memo expressing their outrage that they have to submit new data and indicated the SE's actions were contrary to the September 2005 Apple Anti-Dumping Resolution. While this case has had its share of delays, it is common for both countries to request more information and/or delay implementation (Mexican avocado access to every state in the United States was delayed for nearly 90 years). Sources indicate they believe the GOM has no intention to postpone its decision again. A final decision should be made by March 1, 2010.